

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6860

Petitions of Vermont Electric Power Company, Inc.)
(VELCO), Vermont Transco, LLC, Green Mountain Power)
Corporation (GMP), and Central Vermont Public Service)
Corporation (CVPS) for a certificate of public good,)
pursuant to 30 V.S.A. Section 248, authorizing VELCO to)
construct the so-called Northwest Vermont Reliability)
Project, said project to include: (1) upgrades at 12 existing)
VELCO and GMP substations located in Charlotte, Essex,)
Hartford, New Haven, North Ferrisburgh, Poultney,)
Shelburne, South Burlington, Vergennes, West Rutland,)
Williamstown, and Williston, Vermont; (2) the construction)
of a new 345 kV transmission line from West Rutland to)
New Haven; (3) the reconstruction of a portion of a 34.5 kV)
and 46 kV transmission line from New Haven to South)
Burlington; and (4) the reconductoring of a 115 kV)
transmission line from Williamstown to Barre, Vermont)

Order entered: 11/8/2007

ORDER RE DESIGN PLANS FOR SOUTH MIDDLEBROOK ROAD CROSSING

Background

On January 28, 2005, the Public Service Board ("Board") issued an Order and Certificate of Public Good ("CPG") approving, with modifications and conditions, the Northwest Vermont Reliability Project proposed by Vermont Electric Power Company, Inc. (now Vermont Transco, LLC) (collectively "VELCO") and Green Mountain Power Corporation ("GMP"). A condition of the January 28 Order and CPG stated:

Petitioners shall file, for the Board's approval, final construction plans for the 345 kV line, 115 kV line, and the substation upgrades, concurrent with plans for aesthetic and environmental mitigation, as required by the post-certification process described in the Order. Petitioners may commence construction only after receiving approval for such plans, and receipt of all necessary permits.¹

1. Order of 1/28/05 at 226; CPG of 1/28/05 at 1.

Since the January 28 Order, VELCO has filed design plans for various portions of the project and received approval for the majority of the areas. In today's Order, we approve VELCO's April 17, 2007, plans for the area of the South Middlebrook Road crossing in Ferrisburgh.

VELCO's initial proposal in this Docket – as set forth in its Petition filed on June 5, 2003, – did not include routing the transmission line through the South Middlebrook Road crossing. Instead, VELCO originally proposed for the line to follow an existing subtransmission line through downtown Vergennes. Subsequently, VELCO abandoned its attempts at siting the line through the congested downtown area, and on February 6, 2004, as part of a submission setting forth a number of changes to the route for the 115 kV line,² filed a proposed new route that would avoid downtown Vergennes and instead follow an existing railroad corridor (the "Vergennes Reroute"). That railway corridor crosses South Middlebrook Road, and remains the location where VELCO proposes to construct this segment of the 115 kV line.

In an Order issued June 25, 2007, the Board addressed VELCO's proposed final design plans for much of the 115 kV line. That Order addressed the South Middlebrook Road crossing as follows:

VELCO has worked with the parties and affected landowners to attempt to design an acceptable crossing of South Middlebrook Road in Ferrisburgh, and has prepared several alternate designs for the crossing.

At a February 13, 2007, status conference, VELCO reported that it had prepared a modified design to which all directly affected landowners had agreed, and that it would be filing that modified design. VELCO has yet to file that modified design.

Because we have not yet received VELCO's latest revised plans for this area, we defer ruling on the final plans for the South Middlebrook Road crossing.³

2. The Board scheduled supplemental evidentiary and public hearings on the revised plans, required that the revised proposal be noticed pursuant to 30 V.S.A. § 248(a)(4), established an appropriate intervention deadline for newly affected persons, and allowed parties additional time to prepare for and address the issues presented by the original and amended petitions. The Board further required VELCO to take all reasonable efforts to make its original and amended petitions, its prefiled testimony and exhibits, and its previous discovery responses available to new and potential intervenors upon request. *See* Order of March 5, 2004.

3. Order of 6/25/07 at 14 (citation omitted).

On June 26, 2007, VELCO filed a letter requesting approval for design plans which it had filed on April 17, 2007, for the South Middlebrook Road area (the "April 17 plans").⁴ The Board issued a memorandum on July 5, 2007, setting July 13, 2007, as the deadline for comments on VELCO's April 17 plans. Among the comments received were those of Ronald and Nancy Bachand, who included with their comments an alternate proposed route for the 115 kV line.⁵

On August 2, 2007, the Board issued another memorandum seeking further information regarding the Bachands' proposal, and setting August 15, 2007, as the deadline for comments regarding the feasibility and potential impacts of the Bachands' proposal. Among the comments that the Board received was a petition, filed on August 14, 2007, signed by 40 residents of Plank Road in opposition to the Bachands' proposal, and comments from the Department of Public Service, filed August 15, 2007, favoring VELCO's proposed route over the Bachands' proposal.

On September 20, 2007, the Board convened a site visit, conducted by its General Counsel. The purpose of the site visit was to view the locations of VELCO's proposed route for the South Middlebrook Road crossing and the alternative proposal that has been presented by the Bachands. Following the site visit, additional comments were filed. Among those filing additional comments were the Bachands, who also requested, in comments dated September 23, 2007, that the Board enter into the evidentiary record observations and facts from the September 20 site visit.

Discussion

We first address the Bachands' request to enter observations from the site visit into the record. Board Rule 5.405 provides:

The Board may conduct one or more site visits to view the location of the proposed project. The purpose of the site visit shall be to assist the

4. VELCO had filed those plans on April 17 as part of a Partial Settlement Agreement. The Board declined to approve the Partial Settlement Agreement in its Order of June 25, 2007, without ruling on the merits of the South Middlebrook Road plans.

5. The Bachands had initially filed their alternate route proposal in comments dated January 20, 2007. The Board did not take any further action at that time because, at the February 13, 2007, status conference, VELCO had reported that it had reached agreement with the directly affected landowners on a design for the South Middlebrook Road crossing.

Board and the parties in understanding the proposed project and the issues that the proposed project may present. The site visit will typically include a discussion of the following matters: a description of the proposed project and its location(s); a viewing of the existing conditions at the location(s) of the proposed project; and an explanation of how the existing conditions would be altered by the proposed project. The site visit may also include identification of relevant landscape features, discussion of how such landscape features have affected or potentially should affect the project design and location, identification of and visits to potential alternative locations for the proposed project, and any other relevant matters for which a first-hand viewing of the site(s) may assist in understanding the issues before the Board. *Observations and facts from the site visit shall not be considered as evidence unless the Board, on its own motion or on the request of a party, specifically enters them into the evidentiary record.*⁶

We decline to grant the Bachands' request, for two reasons. First, Board Rule 5.405 provides that only a party (or the Board on its own motion) may request that site-visit observations be entered into the evidentiary record, and the Bachands do not have party status in this proceeding. Second, the Bachands have not identified what observations and facts from the site visit they wish to have entered into the evidentiary record.

Turning to the merits of VELCO's and the Bachands' proposals, we conclude that we should approve VELCO's proposal for the reasons set forth by the Department in its August 15, 2007, comments. In its comments, the Department notes:

The current [VELCO proposed] routing while not ideal for all affected property owners does address aesthetic impacts via the following measures or facts:

- (1) the shifting of the pole locations off of the Jones-Low property and elsewhere to accommodate landowner concerns;
- (2) the effectiveness of plantings as proposed in VELCO's mitigation plans;
- (3) the alignment along the Railroad corridor, an existing infrastructure corridor; and
- (4) the sloping nature of the topography to the east and associated vegetation which will help to visually absorb the poles and conductors.

6. Board Rule 5.405 (emphasis added).

The Bachand alternative route would require an assessment of the trade-offs of one set of visual impacts for another. These would include:

- (1) routing along Route 7 for a short stretch that would create a new visual impact;
- (2) a new set of property owners would be impacted (the Department understands that a petition is being circulated in the neighborhood by those property owners who would be impacted by the alternative route who oppose it);
- (3) one road crossing would be replaced by two crossings and arguably place the line more in the public view than it is going to be with the current proposed alignment; and
- (4) a new corridor would need to be cut through an intact wooded area.⁷

We are especially persuaded by the fact that, as the Department correctly observes, VELCO's proposal would utilize an existing corridor (the railway corridor) in which the 115 kV line would sit less obtrusively in the landscape than it would under the Bachands' proposal. The Bachands' proposal, in contrast, would move the 115 kV line alongside Route 7 into the viewshed of many travelers, and would require creation of a new corridor which, while not yet designed to any level of detail, would cut through a wooded area and bisect a residential area.

Although the Bachands and other South Middlebrook Road residents understandably would prefer that the 115 kV line avoid their neighborhood entirely, VELCO has improved its proposed design for the South Middlebrook Road crossing over several iterations, starting from the February 2004 reroute filing and culminating in the April 17 proposal. Those iterations, in conjunction with VELCO's proposed mitigation plantings, have reduced the impacts of the road crossing on the South Middlebrook Road residents.

Based on all of the above considerations, we conclude that VELCO's April 17, 2007, proposed plans for the South Middlebrook Road crossing represent the preferred location and design for this segment of the 115 kV line, and are therefore approved.

7. Department Comments on Bachand Reroute, August 15, 2007.

SO ORDERED.

Dated at Montpelier, Vermont, this 8th day of November, 2007.

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| s/ David C. Coen |) | BOARD |
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| s/ John D. Burke |) | |

OFFICE OF THE CLERK

FILED: November 8, 2007

ATTEST: s/Susan M. Hudson
CLERK OF THE BOARD

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.